

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1331 OF 2003

Padmakar Vaghya Waghe & Ors. ... Petitioners
(Orig. accused 1 to 85)

Vs.

The State of Maharashtra ... Respondents

Shri A.P.Mundargi i/b. Shri G.G.Patil for the
petitioners.

Ms. P.P.Deshmukh, P.P. for State.

CORAM: S.K.SHAH, J.

DATE : 12th June, 2006.

P.C.

1. I have heard the learned Counsel for the
petitioners. None for the respondent No.2.

2. The Writ petition challenges the order of issue
of process by the Chief Judicial Magistrate, Raigad,
Alibag, for the offence punishable under Sections 323,
504 and 506 of I.P.C. In Revision, the Additional
Sessions Judge, Raigad - Alibag confirmed the order of

issue of process for the offence punishable under Section 323 of I.P.C. only.

3. A perusal of the complaint which is produced shows that for the offence alleged total 85 persons are made accused. The allegation with regard to the offence under Section 323 of IPC is contained only in para 7. These allegations were considered by the learned Additional Sessions Judge in Revision and observed that they are very vague, even then found that such allegations were sufficient for issuing process under Section 323 of I.P.C. It is the allegation that on 4.11.2001, at 8.00 p.m. all the accused went near the hut of the complainant and assaulted him. This is obviously a vague statement. 85 persons cannot assault the complainant at a time. There are no details as to who assaulted him, what injury he sustained and on what part of the body he was assaulted. Obviously, there is no medical evidence. He approached the police who did not take cognizance. In view of the aforesaid vague statements, the Magistrate could not have issued the process.

4. Under the circumstances, the order of issue of process for the offence punishable under Section 323 of I.P.C. against all the accused was totally

erroneous and uncalled for. The details given in the complaint do not make out sufficient ground to proceed against all the accused persons. As such, the order of issue of process passed by the learned Magistrate and confirmed by the learned Additional Sessions Judge, Alibag, for the offence punishable under Section 323 of I.P.C. is hereby quashed and set aside and the Complaint is dismissed.

Writ Petition stands disposed of.

(S.K.SHAH, J.)